



26308

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Patent

Customer No.: 26308

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Nelson et al.

Docket No.: 9473.18472

Serial No.: 10/718,254

Examiner: Unknown

Filed: 20 November 2003

Group Art Unit: 3743

Title: Devices, Systems, and Methods to Fixate Tissue within the Regions of the Body, Such as the Pharyngeal Conduit

PETITION FOR AN UNINTENTIONALLY DELAYED BENEFIT CLAIM  
PURSUANT TO 37 C.F.R. §1.78(a)(3)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests to amend the benefit claim under 35 U.S.C. §120 of the above-noted application, as follows in marked-up form:

This application ~~claims the benefit~~ is a continuation-in-part of co-pending United States Patent Application Serial No. 10/656,861, filed September 6, 2003 and entitled "Magnetic Force Devices, Systems, and Methods for Resisting Tissue Collapse within the ~~Pharyngeal~~ Pharyngeal Conduit,"[;] and a continuation-in-part of co-pending United States Patent Application Serial No. 10/236,455, filed September 6, 2002 and entitled "Systems and Methods for Moving and/or Restraining Tissue in the Upper Respiratory System,"[;] which are each incorporated herein by reference. This application also claims the benefit of ~~and~~ United States Provisional Patent Application Serial No. 60/441,639, filed January 22, 2003 and entitled "Magnetic Splint Device and Method for the Treatment of Upper Airway Collapse in Obstructive Sleep

11/05/2004 HAL111 00000007 10718254

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Apnea[;],” and the benefit of United States Provisional Patent Application Serial No. 60/456,164, filed March 20, 2003 and entitled “Device and Method for Treatment of Sleep Related Breathing Disorders Including Snoring and Sleep Apnea,” which are each incorporated herein by reference.

The priority claim has been amended to provide the relationship of related applications.

Applicant states that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of 37 C.F.R. §1.78 and the date the claim was filed was unintentional.

Applicant hereby petitions for acceptance of the unintentionally delayed benefit claim.

The requisite fee under 37 C.F.R. §1.17(t) is submitted herewith.

Respectfully Submitted,

By Patricia A. Limbach  
Patricia A. Limbach  
Registration No. 50,295

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2 November 2004

Customer No.: 26308

Applicant/18472/041102 Petition Under 37 C.F.R. 1.78(a)(2)



## CERTIFICATE OF FIRST CLASS MAIL

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, with sufficient postage, on the date indicated below in an envelope addressed as follows: Mail Stop Petition, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

By: Linda S. Wenzel

Dated: 2 November 2004

Linda S. Wenzel